

Grant of Legal Assistance to the Government Servants
Under Rules 92 and 109 of the Rules for the Conduct
Legal Affairs of Government, 1984

Government of Maharashtra

Law and judiciary Department,

Circular No.9421/Misc./E.

Mantralaya, Mumbai- 400 032, dated 8th June 2011

In some proceedings, and in particular in the Contempt Proceedings, the Government Officers/Servants are arrayed as party respondents by name and designation. The allegations in such matters are sometimes personal in nature against the Officers/servants, who are impleaded as party respondents. Notices in Contempt Proceedings are being served personally on the respondent and not on Government Pleader, therefore, Government Pleader is not expected to appear in such matters *suo motu*.

The provisions regarding grant of legal assistance when the Government officer/employee is impleaded as party by name and designation are contained under Rules 92 and 109 of the Rules for the Conduct of the Legal Affairs of Government, 1984. The said Rules provide that the administrative department may grant assistance to the Officers, who are made party by name, when such officer has acted in the discharge of his official duties and have acted in good faith. Thus, before grant of legal assistance to the Officers who are arrayed in the Contempt Proceedings by name, it is for the administrative department concerned to get itself satisfied that such officer has acted in good faith and in due discharge of his official duties. Then it shall take conscious decision regarding grant of legal assistance to the officer/employee who is impleaded as party by name and designation. When the administrative department concerned takes decision to extend legal assistance to such officer then it shall move the proposal to the Law and Judiciary Department in that behalf. The Law and Judiciary Department then issues instructions to the Government Pleader concerned for appearing and conducting the case on behalf of the Officers who are made party by name and designation. In view of this position, unless the concerned administrative Department takes a conscious decision to grant legal assistance to the officer/employee who is made party by name and designation and the Law and Judiciary Department issues instructions in that behalf, the Government pleader can not appear on behalf of such officer/employee.

In view of the above position all the Mantralaya departments are requested to take conscious decision and move the proposal as per provisions of Rules 92 and 109

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of the Rules for the Conduct of the Legal Affairs of Government, 1984 for grant of legal assistance to the employees / officers who are impleaded as party by name at the earliest occasion, so that necessary instructions may be issued in time to the Government Pleader concerned for appearing on behalf of such officer so that unnecessary inconvenience/complications can be avoided.

All the Mantralaya Departments are further requested to bring this position to the notice of all the officers working under their control and to instruct them for taking necessary timely action in such matters.

**By order and in the name of the
Governor of Maharashtra**


**(S.S. Shinde)
Solicitor-Cum-Joint Secretary
to Government**

To

All the Administrative Departments in Mantralaya, Mumbai.

The Government Pleader, High Court (A.S.), Writ Cell, Mumbai.

The Government Pleader, High Court (O.S.), Mumbai.

The Government Pleader, High Court (A.S.), Mumbai.

The Government Pleader, High Court, Nagpur Bench at Nagpur.

The Government Pleader, High Court, Aurangabad Bench at Aurangabad.

The Joint Secretary to Government, Law and Judiciary Department, Nagpur.

The Joint Secretary to Government, Law and Judiciary Department, Aurangabad.

The Desk Officer, Desk-VII, Law and Judiciary Deptt.